BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Second Prudence Review of the Missouri Energy Efficiency Investment Act (MEEIA) Cycle 2 Energy Efficiency Programs of Evergy Metro, Inc. d/b/a Evergy Missouri Metro	)	File No. EO-2020-0227
In the Matter of the Second Prudence Review of the Missouri Energy Efficiency Investment Act (MEEIA) Cycle 2 Energy Efficiency Programs of Evergy Missouri West, Inc. d/b/a Evergy Missouri West	)	File No. EO-2020-0228

<u>Public Counsel's Position Statement</u>

Office of the Public Counsel (OPC) offers its Position Statement as follows:

1. Are Staff and OPC's proposed prudence adjustments within the scope of a MEEIA prudence review as defined by 20 CSR 4240-20.093?

Yes. Both the Staff of the Public Service Commission (Staff) and OPC identify certain imprudent acts relating to Evergy Missouri Metro and Evergy Missouri West (collectively Evergy) demand-side programs and recovery thereof through the demand-side investment mechanism (DSIM) surcharge. Public Service Commission (Commission) Rule provides that Staff shall audit the "costs subject to the DSIM" for prudence, and then make an independent recommendation as to what disallowance the Commission should issue, if any.[1] The recommended disallowance in a prudence review includes the "costs associated" with the subject of the audit.[2]

In this instance, Staff and OPC recommend that the Commission disallow Evergy's costs associated with its DSIM. Those costs include those incurred to build the demand response

[1] 20 CSR 4240-20.093(11).
[2] *State ex rel. Riverside Pipeline Co., v. Pub. Serv. Comm'n*, 165 S.W.3d 152, 153-54 (Mo. 2005).

infrastructure that Evergy did not use, and the resulting lost savings that customers should have received but for Evergy's dereliction. The Commission's prudence review process evaluates costs based on what a reasonable decision-maker would consider based on the circumstances and information known at the time.[3] A reasonable decision maker would not continue to spend ratepayer money with no resulting avoided costs or other benefits. A reasonable decision maker certainly would not balloon her administrative budget, while the purported benefits of the programs have not occurred.

2. Did Evergy act imprudently in its implementation of the Residential Programmable Thermostat program? If the Commission finds Evergy acted imprudently, what adjustment should the Commission order?

Yes. It does not matter how Evergy designs demand-side management programs if they are not used to manage demand. It is imprudent to spend ratepayer money on programs for the promise of benefits, only to do nothing but collect an earnings opportunity. Evergy functionally used customer pay to pay for a sports car, promised the benefits of speed and efficiency, and then left the car on cinder blocks.

Evergy's Residential Programmable Thermostat program entails using ratepayer funds to subsidize programmable thermostats for Evergy's customers. Evergy can then use those thermostats to call "curtailment events" whereby Evergy reduces customer demand to redirect it as a new energy source for capacity. Participating customers still maintain the ability to override any reduced demand though.[4] Evergy's tariff states that the purpose of the program is to "reduce

[3] Direct Testimony of Brad Fortson, Schedule BJF-d3, EO-2020-0227 p. 7.
[4] Surrebuttal Testimony of Geoff Marke, EO-2020-0227 p. 7.

system peak load and thus defer the need for additional capacity."[5] Evergy has invested at least 65,000 thermostats since 2004 for the potential benefits of demand-response.[6]

Despite this investment, Evergy Missouri Metro called only four curtailment events of a potential 168 thermostat events in 2018 and 2019.[7] Evergy Missouri Metro only later called five curtailment events in 2019 because of a request in a stipulation and agreement with Staff.[8] Evergy Missouri West continued to incentivize thermostats even as customer adoption of the thermostats exceeded expectations, and clearly needed less financial support from non-participant customers.[9] Despite dispensing so many thermostats, Evergy Missouri West failed to call events to avoid the expense of another supply side resource. Continuing to use ratepayer funds for this demand response program is imprudent because "subsidizing programmable thermostats for demand-response does not benefit all customers if no actual demand response is called."[10] Evergy's decision to not call events is particularly bizarre given that there "is literally no downside and only upside to calling events."[11] Evergy already paid the sunk cost of setting up the demand-side management infrastructure, and incentives to include customers in the program.

The Commission should disallow $287,680 for Evergy Missouri Metro's imprudence on this point.[12] The Commission should also disallow $577,865 for Evergy Missouri West's imprudence on this point.[13]

---

[5] Staff Report, EO-2020-0227 p. 26.
[6] Rebuttal Testimony of Geoff Marke, EO-2020-0227 p. 14; Surrebuttal Testimony of Geoff Marke, EO-2020-0227 p. 6-7 fn1.
[7] Staff Report, EO-2020-0227 p. 29.
[8] Sur-Surrebuttal Testimony of Brian File, EO-2020-0227 p. 14.
[9] Staff Report, EO-2020-0228 p. 25.
[10] Rebuttal Testimony of Geoff Marke, EO-2020-0227 p. 15.
[11] Surrebuttal Testimony of Geoff Marke, EO-2020-0227 p. 7.
[12] Staff Report, EO-2020-0227 p. 30-31.
[13] Staff Report, EO-2020-0228 p. 30.

3. Did Evergy act imprudently in its implementation of its Demand Response Incentive Program? If the Commission finds Evergy acted imprudently, what adjustment should the Commission order?

Yes. Like the residential demand response program, the Demand Response Incentive (DRI) program incentivizes commercial and industrial customers to curtail energy usage during peak demand periods.[14] Also like the residential program, Evergy has not been using the DRI for customers' benefit. Evergy Missouri Metro called only two DRI events of a potential 20 in 2018.[15] Evergy Missouri West likewise engaged with industrial customers to participate in demand-side management, but with no benefits to all customers. Evergy Missouri West financially rewarded customers who opted out of paying DSIM surcharges with moneys from other ratepayers, but did not meaningfully curtail demand.[16] Further compounding Evergy's operation of the DRI program is that Evergy did not meaningfully encourage customers to participate in curtailment events. A DRI customer would still receive incentives to join the DRI program, and that first incentive offsets any penalty for not curtailing demand. "If an enrolled customer can earn more profit than the minimal event penalty costs, the customer is unlikely to participate meaningfully."[17]

The Commission should disallow $111,363 for Evergy Missouri Metro's imprudence on this point.[18] The Commission should also disallow $990,137 for Evergy Missouri West's imprudence on this point.[19]

[14] Surrebuttal Testimony of Geoff Marke, p. 8.
[15] Staff Report, EO-2020-0227 p. 29.
[16] Staff Report, EO-2020-0228 p. 27.
[17] Staff Report, EO-2020-0227 p. 27-28.
[18] *Id.* at 30-31.
[19] Staff Report, EO-2020-0228 p. 30.

4. Did Evergy act imprudently by not calling more demand response events for the purpose of reducing Southwest Power Pool (SPP) fees? If the Commission finds Evergy acted imprudently, what adjustment should the Commission order?

Yes. The Commission recognizes that reducing SPP fees through demand-response generated capacity provides benefits for customers even if demand-side programs do not avoid other supply-side costs.[20] Staff calculates that if Evergy Missouri Metro had utilized demand-response as intended, and generated capacity, Evergy would have avoided over half a million dollars in SPP expenses. Specifically, Evergy Missouri Metro could have saved customers $499,308 by "targeting demand response events and attempting to call events to reduce monthly peak load."[21] Every Missouri West customers could have seen a benefit of $697,784.[22]

The Commission should disallow $499,308 for Evergy Missouri Metro's imprudence on this point.[23] The Commission should also disallow $697,784 for Evergy Missouri West's imprudence on this point.[24]

5. Did Evergy act imprudently by not calling more demand response events for the purpose of reducing the costs associated with day-ahead locational marginal prices? If the Commission finds Evergy acted imprudently, what adjustment should the Commission order?

[20] Amended Report and Order, EO-2019-0132 p. 12.
[21] Staff Report, EO-2020-0227 p. 29.
[22] Staff Report, EO-2020-0228 p. 29.
[23] Staff Report, EO-2020-0227 30-31.
[24] Staff Report, EO-2020-0228 p. 30.

Yes. Similar to Evergy's failure to utilized demand response in a manner to reduce SPP fees, Evergy failed to utilize its customer-supported infrastructure to reduce load at day-ahead (DA) higher locational marginal prices (LMP). LMP refers to the wholesale value of electricity at isolated points on the RTO's network. During peak demand, when it is more expensive to serve customers, LMP is also higher. A DA LMP then reflects the price of wholesale electricity one day before the market opens. SPP participants, like Evergy, can take advantage of DA LMP to budget expenses and meet resource needs. One method to take advantage of DA LMPs is to shift load in order to avoid purchases at higher periods, and generating more at lower ones. Evergy "could have targeted demand response events to pre-cool residential homes with the goal of minimizing the cost of serving load" at high LMP times, while shifting load conversely to meet lower expected LMP periods.[25] Evergy did not do so despite having the demand-response infrastructure in place, and Evergy's knowledge of its ability to reduce its SPP membership costs.

If Evergy Missouri Metro had so reduced load, Evergy customers could have avoided an additional $54,227.[26] Every Missouri West customers could have seen a benefit of $86,303.

The Commission should disallow $54,227 for Evergy Missouri Metro's imprudence on this point.[27] The Commission should also disallow $86,303 for Evergy Missouri West's imprudence on this point.[28]

---

[25] Staff Report, EO-2020-0228 p. 28.
[26] Staff Report, EO-2020-0227 30-31.
[27] *Id.* at 30-31.
[28] Staff Report, EO-2020-0228 p. 30.

6. Did Evergy Missouri Metro act imprudently by not entering into more bi-lateral capacity contracts? If the Commission finds Evergy acted imprudently, what adjustment should the Commission order?

Yes. As previously discussed, Evergy has invested countless time and dollars into its DSIM supported demand-response curtailment programs. One Commission recognized benefit of these programs to "create additional revenue by selling . . . capacity through bi-lateral contracts."[29] Evergy Missouri Metro expected to have excess capacity in its 2018 IRP, and so it reasonably should have considered its ability to capitalizing on bi-lateral contracts for the benefit of itself and customers.[30] Despite this known benefit, Evergy Missouri Metro did not use the demand-resources available to it to produce marketable excess capacity. Evergy Missouri Metro's customers therefore received no associated benefits despite paying for the DSIM that made the benefits possible.

The Commission should disallow $1,161,474 for Evergy Missouri Metro's imprudence on this point.[31]

7. Did Evergy act imprudently by virtue of its MEEIA programs' incentive to non-incentive costs ratios?

Yes. Evergy harmed its customers by deciding to devote an inordinate amount of its energy efficiency spending into administrative and overhead costs, as opposed to actual efficiency measures or savings. Evergy's ratio of non-incentive to energy efficiency spending is the highest in Missouri on record.[32] A single year of spending more on administrative costs than other utilities

---

[29] Amended Report and Order, EO-2019-0132 p. 13.
[30] Staff Report, EO-2020-0227 p. 30.
[31] *Id.* at 30-31.
[32] Rebuttal Testimony of Geoff Marke, EO-2020-0227 p. 3.

may be inconsequential, but the issue for Evergy is that it has consistently displayed this behavior. OPC supplies the following charts in testimony. What these charts show is that Evergy has shown no indication of limiting administrative expense before and during the review period for this prudence review:[33]

Figure 5: Evergy Metro (formerly KCPL-MO) Energy Efficiency Spending (2013-2018), millions 2018 dollars

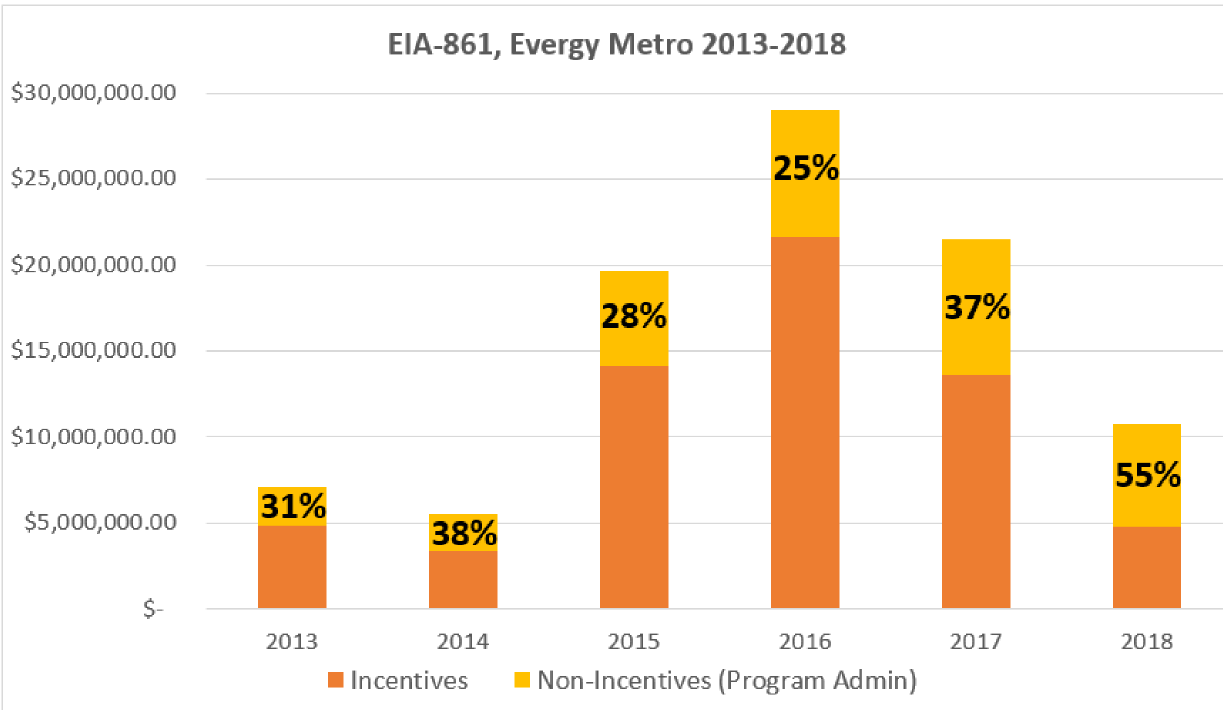
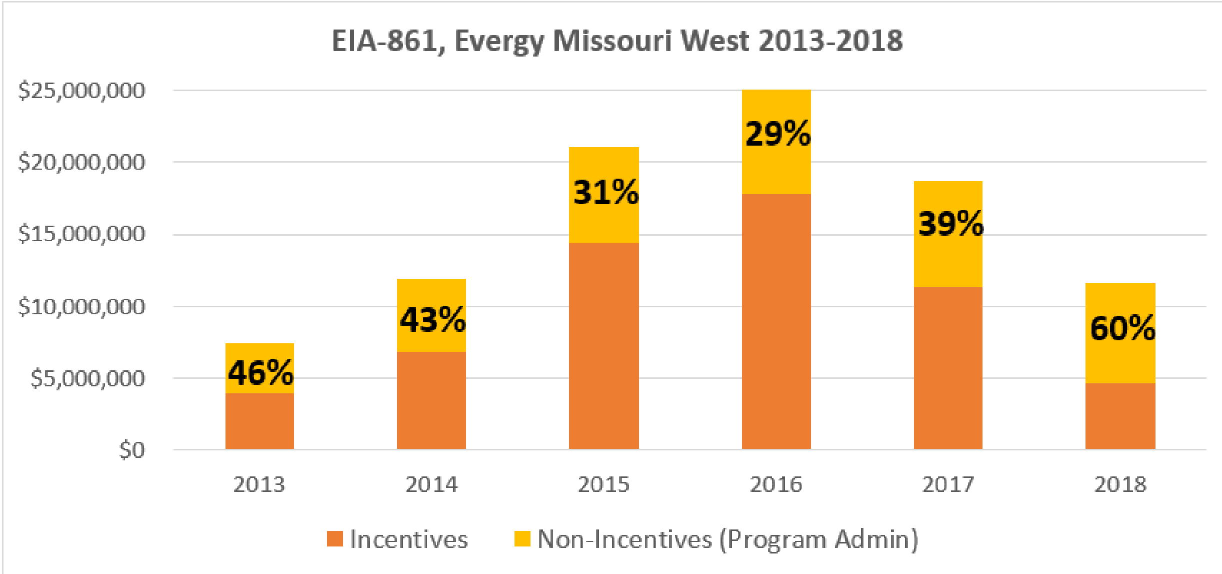


Figure 6: Evergy West (formerly KCPL-GMO) Energy Efficiency Spending (2013-2018), millions 2018 dollars

[33] *Id.* at 6.



Furthermore, Geoff Marke's review of Evergy's self-reported data with the U.S. Energy Information Administration (EIA) shows that Evergy's practice of regularly spending more than half of all efficiency spending on administrative features is outside the norm. The national six-year average for non-incentive spending from 2013 to 2018 is 39.5%. Evergy Missouri Metro has devoted as little as 31% of its budget to administrative costs in 2013, and as high as 55%.[34] Evergy Missouri West spent 29% of its energy efficiency budget on non-incentive costs in 2016, but 60% in 2018. Most recently, Evergy spent 55% and 60% of its energy efficiency budget on administrative costs for Evergy Missouri Metro and Evergy Missouri West, respectively.[35] This spending places Evergy Missouri Metro and Evergy Missouri West as the 23rd and 19th worst, respectively, out of 515 utilities in terms of non-incentive costs relative to efficiency incentives.[36]

Paying for administrative overhead is reasonable, but being such a national outlier is unreasonable. As Evergy has continued to implement and spend more on energy efficiency,

---

[34] *Id.*
[35] *Id.* at 7.
[36] *Id.*

customers should expect the Company to capitalize on efficiencies and utilize pre-existing administrative resources. Spending money excessively on non-incentive costs diverts funds from efficiency measures and thereby decreases benefits to all customers. A reasonable person would consider how to limit administrative costs, to maximize benefits. Continuing to pay excessive overhead amounts, especially when demand-response is not offsetting SPP fees, supply-side investment, or other cost, is unreasonable and imprudent

The Commission should also disallow $1,930,392 from Evergy Missouri West for its imprudence on this point.[37] Disallowing this sum, along with Staff's other recommendations, will bring Evergy in line with the national average for non-incentive spending at a 50/50 ratio for incentive versus non-incentive spending.

WHEREFORE, OPC offers its Position Statement.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

/s/ Caleb Hall
Caleb Hall, #68112
200 Madison Street, Suite 650
Jefferson City, MO 65102
P: (573) 751-4857
F: (573) 751-5562
Caleb.hall@opc.mo.gov

Attorney for the Office of the Public Counsel

[37] *Id.* at 2.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 28th Day of October, 2020, with notice of the same being sent to all counsel of record.

/s/ Caleb Hall